

REMARKS

Claims 4-6, 11 and 18-23 are pending in the instant application (hereinafter, the “‘523 Application”). Claim 18 is amended to incorporate the features of claims 2 and 3, per the Examiner's notice that claim 3 would be allowable if rewritten in independent form, including all limitations of the base claim (claim 18) and any intervening claim (claim 2). Accordingly, claims 2 and 3 are cancelled without prejudice, and claim 4 is amended to preserve antecedent basis. Claims 21-23 are allowed.

It is believed that amendments and remarks presented herein address and overcome the objection and rejections presented in the Office Action mailed 10 April 2007.

Claim Rejections – 35 U.S.C. § 102

Given the cancellation of claim 2, claims 11 and 18-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,308,728 (hereinafter, "Frazier"). We respectfully disagree; however, in order to advance the ‘523 Application to allowance, claim 18 is amended to incorporate the features of claims 2 and 3. The Examiner has indicated that claim 3 would be allowable if rewritten in independent form, including all limitations of the base claim and any intervening claims. Claim 3 depends from claim 2, which in turn depends from claim 18. The amendment to claim 18 therefore constitutes rewriting claim 3 as the Examiner suggests. Per the Examiner's indication of allowable subject matter, amended claim 18 is believed allowable over Frazier.

We would like to note that claim 18 does not require the addition of features from claim 3 to patentably distinguish over Frazier. For example, amended claim 18 now recites a sensor with at least one switch having first and second plates. Uncirculated fluid within the stack leak containment member forms an electric current path between the first and second plates, and a controller associated with the switch senses presence or absence of the current path. Frazier does not teach or even suggest such a switch. Instead, Frazier relies upon a leak detector 62, described as a cotton sleeve with two conductor strands wrapped in fiberglass. A resistor connects to the conductor strands at one end of the sleeve, and lugs connect to the conductor strands at the other end of the sleeve. The sleeve wicks fluid to the conductor strands. See Frazier col. 7, lines 14-43; FIG. 21. Although Frazier indicates that other shapes of leak detector

62 are possible (see col. 7, lines 53-55), Frazier does not recite any other makeup for the leak detector. Frazier is absolutely silent as to first and second plates, which are now recited in claim 18.

Additionally incorporating the elements of claim 3 into claim 18 is not believed necessary to overcome Frazier. However, in order to advance the '523 Application to allowance, such an amendment is made herein above. We respectfully request entry of the above amendment, and allowance of claim 18.

Claims 11 and 19-20 depend from claim 18, and thus benefit from like argument. We therefore likewise request withdrawal of the Examiner's § 102 rejection of claims 11 and 19-20, and allowance of the claims.

Conclusion

Claims 4-6, 11 and 18-23 remain pending. Claim 18 is amended in accordance with the Examiner's indication of allowable subject matter, and is therefore believed allowable over Frazier. Claims 4-6, 11 and 19-20 depend from claim 18, and are therefore also believed allowable. Claims 21-25 are allowed.

We respectfully request solicit a Notice of Allowance for all of claims 4-6, 11 and 18-23.

No fees are believed due; however, if any fee is required in connection with this Amendment and Response, please charge deposit account no. 12-0600. Should any issues remain outstanding, the Examiner is encouraged to telephone the undersigned agent.

Respectfully submitted,
LATHROP & GAGE L.C.

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By: Heather F. Perrin
Heather F. Perrin, Reg. No. 52,884
4845 Pearl East Circle, Suite 300
Boulder, Colorado 80301
Telephone: (720) 931-3033
Facsimile: (720) 931-3001